

# **APPENDIX III**



Wednesday, January 28, 2004

To: American Type Culture Collection  
Attn: Patent Depository  
10801 University Blvd  
Manassas, VA 22010-2209  
(703-365-2700)

**Declaration**

**Seeds for Patent Deposit and Storage HA3518 - Hazera Genetics Ltd.**

Package content - 2500 Tomato seeds --  
(in 100 labeled packets of 25 seeds each = total of 7.5 gram)  
  
Proforma # HG280104  
  
Kind of seeds - Lycopersicon esculentum  
  
Variety - Tomato hybrid seeds designated HA3518  
  
Origin of seeds - Israel  
  
The Use of seeds - For patent deposit purposes-to be kept in storage

Sincerely,

Dr. Shoshan haran

Scientific and Business Manager  
Hazera Genetics  
Brurim MP Shikmim  
Israel 79837

More than **60** Years of Innovation

Hazera Genetics Ltd. Headquarters.

M.P. Shikmim 79837 Israel, Tel+972-8-8508850, FAX +972-8-8502442, Email: [HAG@hazera.com](mailto:HAG@hazera.com), [WWW.hazera.co.il](http://WWW.hazera.co.il)





Wednesday, January 28, 2004

To: American Type Culture Collection  
Attn: Patent Depository  
10801 University Blvd.  
Manassas, VA 22010-2209  
(703-365-2700)

Attn:  
Marie Harris  
ATCC Patent Department

Re: Seeds for deposit for patent purpose - Tomato Hybrid HA3518  
Hazera Genetics Ltd.

Dear Marie Harris,

Please find enclosed 2500 tomato seeds of *Lycopersicon esculentum* for patent deposit purposes - to be kept in storage.

Variety - Tomato hybrid seeds designated HA3518.  
Company - Hazera Genetics Ltd.

Please also find attached.

1. The Budapest Treaty Deposit Form
2. Declaration accompanying the seeds
3. A Phyto-Sanitary form # IL 115238-04
4. The sum of 2,500\$ was transferred via the First International Bank of Israel to Account Number 003933990352, ABA # 052001633, American Type Culture Collection, c/o Bank of America, N.A., Baltimore, MD. Federal ID #53-0196548

Please confirm receipt of the seeds to me at: Fax: 972-8-8600560 or E-mail:  
[shoshan@hazera.com](mailto:shoshan@hazera.com)

Sincerely,

Dr. Shoshan Haran  
Scientific and Business Manager  
Hazera Genetics  
Brurim MP Shikmim, Israel 79837

More than **60** Years of Innovation

Hazera Genetics Ltd. Headquarters.

M.P. Shikmim 79837 Israel, Tel+972-8-8508850, FAX:+972-8-8502442, Email: [HAG@hazera.com](mailto:HAG@hazera.com), [WWW.hazera.co.il](http://WWW.hazera.co.il)



# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Hazera Genetics Ltd.  
Attn: Dr. Eyal vardi  
R&D Division  
Mivhor, M.P. Lachish Darom  
79354 Israel

Deposited on Behalf of: Hazera Genetics Ltd.

Identification Reference by Depositor:

Patent Deposit Designation

Lycopersicon esculentum: HA 3518

PTA-5796

The seeds were accompanied by:    a scientific description a proposed taxonomic description indicated above. The seeds were received February 5, 2004 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested February 17, 2004. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: February 27, 2004

cc: Dr. Hedva Schickler

Ref: Docket or Case No.: HZR/001 PCT



# BUDAPEST TREATY DEPOSIT FORM (BP/1)

American Type Culture Collection

P.O. Box 1549  
Manassas, VA 20108

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF THE BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF A PATENT PROCEDURE

**ALL QUESTIONS MUST BE COMPLETED IN ENGLISH. PLEASE USE ONE FORM FOR EACH STRAIN DEPOSITED.**

1. Name of deposit: Please mark the appropriate box and provide the information requested for the material:

- ☐ **Microorganism** - the complete scientific name including genus and species plus the source of the material
- ☐ **Virus** - the name, whether plant or animal, and source including geographic location
- ☐ **Cell line** - the species and tissue of origin, geographical source of isolation, and any known associated hazards (HIV, EBV, etc.)
- ☐ **Genetic material** - the name of organism from which vector, clone or library is derived, the source of the DNA insert identified by species (e.g., human, mouse) or scientific name, the name of gene, and the identity of the host organism
- ☐ **Consortia or mixed culture** - the identity of each component of the mixture
- ☒ **Seeds, embryos, insect eggs, etc.** - the common name, the scientific name of the source of the deposit, and geographical source

Information: TOMATO (*Lycopersicon esculentum*) Israel

2. Strain designation\* (i.e., number, symbols, etc.): HA 3518

\*The strain designation must correspond with the vial labels.

3. Is this an original deposit under the Budapest Treaty? ☒ Yes ☐ No

4. Is this a request for a conversion of a deposit already at the ATCC to meet the requirements of the Budapest Treaty?  
☐ Yes ☒ No

If yes, please indicate ATCC designation.

5. Is this deposit a mixture of microorganisms or cells? ☐ Yes ☒ No  
If yes, please describe:

Provide details necessary to cultivate, test for viability and store the deposit. If a mixture, provide description of components and a method to check for presence. If a plasmid, provide name of host and antibiotic resistance. Tomato hybrid for bush growth without staking. Seed storage 15 °C humidity 30%

7. Provide sufficient description so that ATCC may confirm deposit properties (e.g., Gram negative rod):

a. If deposit is a cell culture, is it being cultured in the presence of antibiotics? ☐ Yes ☒ No  
If yes, please list the antibiotics:

b. If deposit is a hybridoma, what is the isotype of the antibody produced?

8. Safety: Is this strain hazardous to humans? ☐ , animals? ☐ , plants? ☐

If yes, what is the recommended biosafety level for working with this strain?

(Refer to *Biosafety in Microbiological and Biomedical Laboratories*, 4th ed. HHS Publication No. (CDC) 93-8395, U.S. Department of Health and Human Services, Centers for Disease Control, Washington, DC: U.S. Government Printing Office, 1999. The entire text is available online at [www.cdc.gov/od/ohs/biosfty/bmbl4/6mb14toc.htm](http://www.cdc.gov/od/ohs/biosfty/bmbl4/6mb14toc.htm).)

9. Regulatory Compliance:

a. Was the material derived from a human? ☐ Yes ☒ No

If yes, was an IRB-approved consent form (human subjects) obtained? ☐ Yes ☒ No

b. Was this material obtained from wildlife? ☐ Yes ☒ No

If yes, please indicate genus and species and whether wild or captive bred:

c. Is work performed at your facility with exotic viruses affecting livestock and avian species? ☐ Yes ☒ No

- d. Identify any reagents of animal origin used to cultivate this organism/cell line (serum, growth factors, trypsin, etc.) and manufacturer, if known:

10. Availability:

Prior to issuance of a U.S. Patent, ATCC will only make a culture available as instructed by the depositor or relevant patent office. Samples must be provided to a specific investigator if a pertinent Patent Office under the Budapest Treaty instructs ATCC to do so. The following questions must be answered:

- a. As of date of deposit or conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to anyone who requests a culture? If yes, there are no restrictions on distribution. **Answering no will ensure the deposit is not available until the patent has issued.** ☐ Yes ☒ No
- b. As of the date of deposit or conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to requesters that satisfy Patent Offices in countries not signatory to the Budapest Treaty? ☐ Yes ☒ No  
If "yes," please state which countries:

Please note that if you are converting your deposit to meet the requirements of the Budapest Treaty, and your deposit has already been released for distribution due to the issuance of a U.S. Patent, you cannot restrict it from further distribution.

After a U.S. Patent issues and we are so notified, ATCC makes the culture available to anyone who requests it, as allowed under U.S. Patent and Trademark Office (USPTO) Rules and Regulations (37 CFR 1.808 [a][2]).

11. Notification: ATCC will notify you of your ATCC number after viability of the deposit has been confirmed.

Name of individual to notify: Dr. Shoshan Haran

Fax: 972-8-8600560

Phone: 972-8-8509993

E-mail: shoshan@hazera.com

12. Payment by check or credit card (MasterCard, VISA or American Express) must accompany the deposit unless prior arrangements for billing have been made and approved. ATCC accepts purchase orders for the exact amount.

**Money Wire Transfer (2,500\$) by Hazera Genetics Ltd. via the first International Bank of Israel, to Account Number 003933990352, ABA # 052001633 ATCC**

Check No. Purchase Order No.

Credit Card number

Please indicate MasterCard, VISA, or American Express:

Exp. Date:

Name shown on card:

(Please print clearly or type)

Signature of card holder

**PAYMENT: ATCC MUST HAVE A BILLING ADDRESS, CONTACT PERSON, PHONE AND FAX FOR ALL DEPOSITS.**

Contact Name: Assaf Navot

Billing Address: R&D Division, Mivhor, M.P. Lachish darom, 79354, Israel

Phone: 972-8-6878123

Fax: 972-8-6714057

Do you have a current ATCC account number? ☐ Yes ☒ No

If Yes: ATCC Account Number =

If No: To apply for an account with ATCC, please complete a New Account Application located on our Web site ([www.atcc.org](http://www.atcc.org)) and return it with supporting documentation to ATCC for approval.

13. Name, address, phone and fax number of your Attorney of Record:

Contact Name: Dr. Hedva Schickler

Address: Webb & Associates, Patent Attorney, P. O. Box 2189, Rehovot 76121, Israel

Phone: ++972-8-9484666

Fax: ++972-8-9470860

(Ref: Docket or Case No. HZR/001 PCT )

14. **MUST BE COMPLETED.** Deposited on behalf of: (Verify with your management who owns the deposit. The owner is usually a company or institution, and not an individual.) Hazera Genetics Ltd.

I understand and agree that the deposit may not be withdrawn by me for the period specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of deposit or 5 years after the date of the most recent request for the deposit, whichever is longer), and that if a culture should die or be destroyed during the life of the patent, or the period of time so specified, it is my responsibility to replace it with a living culture of the same organism or cell. In the cases of viruses, cell cultures, plasmids, embryos, and seeds, it is my responsibility to supply a sufficient quantity for distribution for the period of time specified above.

Hazera Genetics Ltd.

Dr. Eyal vardi, Head of R&D Division

Printed Name

[Signature]  
Signature

28/1/03

Date

Address: R&D Division, Mivnor, M.P. Lachish Daron, 79354, Israel

Phone: 972-8-6678120

Fax: 972-8-6714057

E-mail: vardi@hazera.com

**SHIPPING INFORMATION**

BEFORE SHIPPING, PLEASE CONTACT THE ATCC PATENT DEPOSITORY FOR SHIPMENT ADVICE

Fax: (703) 365-2745

E-mail: PatentDeposit@atcc.org

**SHIPPING NOTICE**

The depositor is ultimately responsible for the shipment of deposits to the ATCC and compliance with all applicable government regulations for the packaging and movement of the material. The depositor shall indemnify ATCC, to the extent permitted by law, against claims resulting from the violation of applicable government regulations caused by the depositor's shipment of deposits to the ATCC.

**STORAGE & FEES**

**Storage:** Cultures are stored for 30 years from date of deposit or five years after the last request for a sample, whichever is longer, as required under the rules of patent offices in most countries.

**Fees:** All fees are subject to change. For current fees and other information, check our Web site at [www.atcc.org](http://www.atcc.org) or request a quotation of fees by e-mail at PatentDeposit@atcc.org or fax: (703) 365-2745

ATCC USE ONLY: ATCC DESIGNATION \_\_\_\_\_

REC'D \_\_\_\_\_

V.T. RESULT \_\_\_\_\_

ATCC® is a registered trademark of the American Type Culture Collection.

**S/N 10/587,789****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Ezri Peleg

Serial No.: 10/587,789

Attorney Docket No.: 27275.005

Filed: March 03, 2008

Title: HIGH LYCOPENE TOMATO VARIETIES AND  
USE THEREOF

Examiner: Bui, Phuong T

Group Art Unit: 1638

**DECLARATION**

We the undersigned, Hazera Genetics Ltd., assignee for US Patent Application 10/587,789  
do hereby declare that on January 29, 2004 we sent for deposit with ATCC the following seeds:

2500 seeds of *Lycopersicon esculentum* HA3518 designated PTA-5796

This deposit has been made under the Budapest Treaty on the International Recognition of the  
Deposit of Microorganisms for the Purposes of Patent Procedure.

We hereby declare that the seeds will be irrevocably and without restriction or condition released  
to the public upon issuance of a patent for this application.

\_\_\_\_\_  
Hazera Genetics Ltd.  
HAZERA GENETICS LTD

By:

Ezri Peleg

Date

29/05/2011